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OCT 10 2005

FACSIMILE TRANSMISSION

IMPORTANT MESSAGE

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TO: United States Patent & Trademark Office
Name: EXAMINER: GARY L. Welch
Fax Number: 571-273-8300

FROM:
Name: Daniel W. Ernsberger
Re: File Name: John J. STANKO
& Number: App # 10/634,620 # 03-0011
ART UNIT: 3765

TOTAL PAGES TRANSMITTED (including this page) [12]

REMARKS: Following This Form is A Copy of:

- 1- Reply To office ACTION
- 2- office ACTION

The original Reply will be sent by U.S. mail Today.

Please call (412) 391-2515 if all pages were not received.

SENT BY: DT **DATE:** 10-10-05 **TIME:** 12:18

Re: Applicant : John J. Stanko
Application No. 10/634,620
Pocket Protector
Examiner: Gary L. Welch
Art Unit: 3765
Our File No. 03-0011

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REPLY TO OFFICE ACTION DATED JULY 12, 2004

Amendment of Specifications

The applicant , by his attorney, request the examiner to amend this specification. On page 3, the first full sentence should read as follows: The reinforcing material can be affixed to either side of the inner pocket fabric and either side of the outer pocket fabric, and can be woven, sewn, or otherwise incorporated into the pocket itself; **the improvement comprises a reinforcing material that is affixed to and runs down the outer fabric of the pocket and is affixed to and runs up the inner fabric of the pocket.**

The amendment does not add new matter. The added words are found in claim 1.

Response to office action

(Section 102 Rejection)

The Examiner has issued an office action dated, July 12, 2004, that rejects claims 1 through 6. Under 35 U.S.C (102(b) as being anticipated by Gasser (U.S.4,972,524). The Examiner states that:

“Gasser discloses a pocket protector consisting of an outer fabric 4 and an inner pocket fabric, 1 secured along their edges 5, 6 to form a pocket. A reinforcing material 7 is affixed to and runs down the outer fabric of the pocket as affixed to and runs up the inner fabric of the pocket. The reinforcing material 7 is sandwiched between fabric layers (1 and 4) and therefore contacts both layers as to prevent the loss of the wallet through the actions of a pickpocket who tries to cut the pocket with a knife.”

The Examiner has rejected the present patent based on a mis-apprehension of the Gasser Invention. The abstract in Gasser says:

“According to the invention, an anti pickpocket device is composed of a metal lattice from which extended at least two connecting elements designed to be secured to different points of the internal fabric of the pocket in such a way that the lattice extends over most of the internal surface of the outer fabric of the pocket so that it is disposed between the object contained in the pocket and the outer fabric of the pocket.” (emphasis added)

It does not say, “over the internal surface of the inner fabric.” Figures 2 and 3 of the Gasser patent confirm that the anti pickpocket device extends over most of the internal surface of the outer fabric of the pocket. The drawings do not show an anti pickpocket device that extends over the internal surface of the inner fabric of the pocket.

Your applicants interpretation of Gasser is further supported by the specification in Gasser.

Column 1, lines 20 through 26, repeat the disclosure found in the abstract:

The “anti pickpocket device is characterized of being composed of a metal lattice from which extended at least two connecting elements designed to be secured to different points of the internal fabric of the pocket in such a way that the lattice extends over most of the internal surface of the outer fabric of the pocket, so that it is disposed between the object contained in the pocket and the outer fabric of the pocket.” (emphasis added)

Again, it does not say: “the internal surface of the inner fabric.” The present invention is different. Figure 3 of the present invention shows that the reinforcing material, 6, is attached to both, the inside fabric 2, and the outside fabric 5. Figure 4 of the present invention shows that the reinforcing material is attached to the inside fabric 21, and the outside fabric

17.

The Gasser patent does not disclose the attachment of a reinforcing material to both the inner fabric and outer fabric of the pocket. The present invention has unique advantages over the Gasser design. As stated in the final paragraph of page one of the present invention:

“the pocket protector of the present invention consists of an outer pocket fabric, and an inner pocket fabric, secured along their edges to form a pocket; where in the improvement comprises a reinforcing material that is affixed to and runs down the outer fabric of the pocket and is affixed and runs down the inner fabric of the pocket. Thus, when a pickpocket cuts the pocket fabric, the reinforcing material is not cut, and the reinforcing material cradles the contents of the pocket, and keeps the contents of the pocket from falling into the hands of a thief.”

The essential element of the invention is that the reinforcing material goes down the outer fabric and up the inner fabric so as to form a cradle. This cradle is not disclosed nor fairly suggested in the Gasser patent. A large wallet causes a pocket to bulge out and to make it easy for a pickpocket to cut the material below the pocket. The “cradle” in the present invention keeps the wallet from falling into the hands of the pickpocket.

(Section 103 Rejection)

The Examiner has also rejected claims 2 through 6 under 35 U.S.C 103(a) as being unpatentable over Gasser. The examiner states:

A review of applicant's disclosure does not reveal the criticality for using stainless steel wire (i.e., why stainless steel is superior over any other material). It would have been obvious through routine experimentation to replace the metal wire of Gasser with a stainless steel wire in order to provide a predetermined level of protection against a certain cutting implement.

As stated in the specifications, the stainless steel wire is preferred because the use of steel gives the user of the pocket a feeling of security. Further, embroidery stitching is preferred because the stitching on the outer fabric is visible to pickpockets and may discourage them from applying their trade, and because the embroidery stitching on the inner fabric can be felt by the user and gives the user some form of reassurance that their valuables are being protected. These attributes are not disclosed nor fairly suggested by the Gasser patent.

The Examiner has stated that:

with regards claims to 3 and 4, the reinforcing material is enforced to the material with rivets and hooks. It is well known, in the art, that various types of fastening mechanisms are functionally equivalent.

Your applicant respectfully disagrees. Iron on patches are not disclosed nor fairly suggested by the Gasser patent. The Gasser patent does not disclose or fairly suggest a mechanism for a retro fit. The use of an iron on patch is found to be a successful and functional retro fit of the present invention. This retro fit application is not disclosed nor fairly suggested in Gasser.

The Examiner has stated that: "With regard to 5 and 6, the flexible material consists of multiple strands."

Your applicant respectfully disagrees that the use of multiple strands is obvious. The patent application speaks of sacrificial strands, i.e. strands that might well be cut.

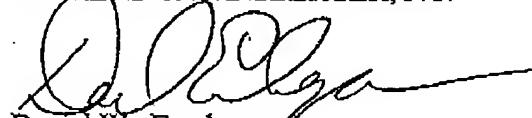
It can be a single continuous thread or ribbon or wire or even multiple strands; and, it is not necessary that all the strands are strong enough to withstand the cut of the knife blade so long as some of the strands do.

The sacrificial strands serve a real purpose. They stop the knife blade from cutting all

the strands. These sacrificial strands are not disclosed nor fairly suggested by the Gasser patent.

For the above reasons, the present application is ready for issuance and your applicant requests that the patent be issued.

Sincerely,
BEHREND & ERNSBERGER, P.C.



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PAGE 7/12 * RCV'D AT 10/10/2005 12:29:08 PM [System Daylight Time] * SVR-USPTO-FXRF-6/29 * DMS-2/38300 * CSID:4123912762 * DURATION (mm:ss):03:04

Office Action Summary	Application No.	Applicant(s)
	10/634,620	STANKO, JOHN JAMES
	Examiner	Art Unit
	Gary L. Welch	3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 November 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

Application/Control Number: 10/634,620
Art Unit: 3765

Page 2

DETAILED ACTION

1. The disclosure is objected to because of the following informalities:

Page 3, lines 18-22: Claim 1 is repeated at the bottom of the specification. It is noted that claim 1 is provided on a separate sheet along with claims 2-6. It is requested that claim 1 at the bottom of page 3 be deleted since claims are required to start on a separate sheet of paper.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Gasser (U.S. 4,972,524).

Gasser discloses a pocket protector consisting of an outer pocket fabric 4 and an inner pocket fabric 1 secured along their edges (5, 6) to form a pocket. A reinforcing material 7 is affixed to and runs down the outer fabric of the pocket and is affixed to and runs up the inner fabric of the pocket. The reinforcing material 7 is sandwiched between fabric layers (1 and 4) and therefore contacts both layers so as to prevent the loss of a wallet through the actions of a pickpocket who tries to cut the pocket with a knife.

Notice of References Cited		Application/Control No. 10/634,620	Applicant(s)/Patent Under Reexamination STANKO, JOHN JAMES	
		Examiner Gary L. Welch	Art Unit 3765	Page 1 of 2

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,374,421	04-2002	Cleary, Scott E.	2/254
	B	US-4,891,865	01-1990	Biloff, Elmer E.	24/3.5
	C	US-4,972,524	11-1990	Gasser, Karl	2/250
	D	US-4,083,321	04-1978	LeBron et al.	116/84
	E	US-4,885,570	12-1989	Chien, Darin	340/571
	F	US-3,723,994	04-1973	Tucker, Cathern A.	2/248
	G	US-4,083,321	04-1978	LeBron et al.	116/84
	H	US-4,388,734	06-1983	Cowden, Reuel W.	2/250
	I	US-5,156,891	10-1992	Issoe et al.	427/289
	J	US-5,124,190	06-1992	Issoe et al.	428/173
	K	US-6,760,926	07-2004	Miller, Raymond J.	2/250
	L	US-D465,640	11-2002	Vazquez, Maximino	D2/857
	M	US-D433,807	11-2000	Vazquez, Maximino	D3/303

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Notice of References Cited		Application/Control No.	Applicant(s)/Patent Under Reexamination	
		10/634,620	STANKO, JOHN JAMES	
Examiner Gary L Welch		Art Unit 3765		Page 2 of 2

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-D395,155	06-1998	Barker, Lydia M.	D2/857
	B	US-D263,766	04-1982	Heinfling, Martin	D2/857
	C	US-D260,321	08-1981	Heinfling, Martin	D2/857
	D	US-D260,320	08-1981	Heinfling, Martin	D2/857
	E	US-D258,172	02-1981	Heinfling, Martin	D2/857
	F	US-D243,291	02-1977	Mechaly et al.	D2/857
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
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	W	
	X	

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 Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Application/Control Number: 10/634,620
Art Unit: 3765

Page 3

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gasser (U.S. 4,972,524).

Gasser discloses the invention substantially as claimed above.

However, Gasser does not disclose that the reinforcing material is stainless steel wire.

A review of applicant's disclosure does not reveal the criticality for using stainless steel wire (i.e., why stainless steel is superior over any other material).

It would have been obvious through routine experimentation to replace the metal wire of Gasser with a stainless steel wire in order to provide a predetermined level of protection against a certain cutting implement.

With regard to claims 3 and 4, the reinforcing material is affixed to the pocket with rivets and hooks (15, 16). It is well known in the art that various types of fastening mechanisms are functionally equivalent. Hook and loop, iron on patches, button and buttonhole, hooks and rivets, snaps, stitching and adhesive are a few examples. These fasteners may be used interchangeably depending upon the desired aesthetic effect. Further, the specification does not give an indication of why embroidery stitching or iron on patches would be desirable over another fastener type.

Application/Control Number: 10/634,620
Art Unit: 3765

Page 4

With regard to claims 5 and 6, the flexible material consists of multiple strands.

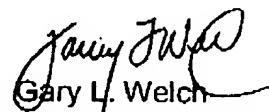
Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Behnke '614, Tucker '994, LeBron et al. '321, Cowden '734, Isoe et al. '891 and '190 and Miller '926 disclose various pocket protection devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary L. Welch whose telephone number is (571) 272-4996. The examiner can normally be reached on Mon-Fri 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gary L. Welch
Primary Examiner
Art Unit 3765

glw